

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 GEORGETTE McNABB,

11 Plaintiff,

12 v.

13 UNITED STATES DEPARTMENT OF
14 THE ARMY, et al.,

15 Defendants.

16 v.

17 JANE LEE SMITH, et al.,

18 Third-Party Defendants.

CASE NO. C12-6038RBL

ORDER

19 On May 14, 2013, the Court dismissed Plaintiff Georgette McNabb's cause of action
20 challenging the validity of her late husband's change of beneficiary for his Servicemembers'
21 Group Life Insurance ("SGLI") from her to Jana Lee Smith ("Smith") for \$280,000 and to his
22 son Jacob-Colten, and Ms. Smith's two daughters for \$120,000 [Dkt. #36]. Prudential has paid
23 \$280,000 to Ms. Smith. Defendant Prudential Insurance Company of America's Counterclaim,
24 Third-Party Claim in Interpleader and Contingent Cross Claim filed February 26, 2013 [Dkt. #12]. After filing its Counterclaim, Third-Party Claim in Interpleader and Contingent Cross Claim on February 26, 2013, Prudential then filed its Agreed Motion to Permit Deposit into the

1 Registry of the Court of the \$120,000 on March 26, 2013 [Dkt. #34]. The Court granted leave
2 for Prudential to deposit a \$120,000 check into the Registry of the Court on April 10, 2013 [Dkt.
3 #35].

4 Plaintiff now moves for summary judgment which seeks to resolve Defendant Prudential
5 Insurance Company of America's Counterclaim, Third-Party Claim in Interpleader and
6 Contingent Cross Claim [Dkt. #49]. The Court is informed that Plaintiff asserts that Defendant
7 Prudential contends that Plaintiff's Appeal of the Court's Order on Motion to Dismiss entered
8 May 14, 2013, Order on Motion for Reconsideration entered May 23, 2013, and Judgment
9 entered May 24, 2013, is premature pursuant to Fed. R. Civ. P. 54(b).

10 The Court DENIES the Motion for Summary Judgment [Dkt. #49]. The Court
11 determines that there is no just reason for delay of Plaintiff's appeal of the Court's Order
12 dismissing Plaintiff Georgette McNabb's lawsuit pursuant to Fed. R. Civ. P. 54(b) [Dkt. #36].
13 The Court has directed the deposit of the remaining \$120,000 into the Registry of the Court and
14 the remaining issues raised by Prudential in its Counterclaim, Third-Party Claim in Interpleader
15 and Contingent Cross Claim will be resolved if the Court's Order dismissing Plaintiff's claims is
16 affirmed by the Ninth Circuit Court of Appeals. If the Ninth Circuit reverses the Court's Order,
17 the Court will have the opportunity to reconsider this case on remand and rule on the issues
18 raised in Prudential's Counterclaim, Third-Party Claim in Interpleader and Contingent Cross
19 Claim.

20 Dated this 20th day of August, 2013.

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23 RONALD B. LEIGHTON
24 UNITED STATES DISTRICT JUDGE